**Precautions to be taken by the Government Pleaders or the Counsels while prosecuting the matter on behalf of State before any Judicial Forum.**

**Government of Maharashtra**
**Law and Judiciary Department**
**Government Circular No.: 721-2017/Misc./E**
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai-400 032.
Date: 06 July, 2018.

## CIRCULAR

**Read -**

1. **This department's Circular No.: 2573/Misc./E Br. dated 23.08.2010**

The Hon'ble Bombay High Court while deciding the Civil Application No. 195/2017 in Review Petition (St) No. 17534/2017 in Writ Petition No. 6968/2008, seeking condonation of delay in filing Review Petition in Writ Petition No. 6968/2008, decided on 16.06.2014, has expressed concern on the issue of statement having been made by the Law Officer on behalf of State, without instructions of the concerned department, and non-communication of the Court order to the State by the office of the Government Pleader.

2. All the concerned are, therefore, instructed to take note of the observations made by the Hon'ble High Court in its order dated 07.11.2017 in Civil Application No. 195/2017 in Review Petition (St) No. 17534/2017 in Writ Petition No. 6968/2008.

3. Attention of all the Government Pleaders and Counsels appearing for the State Government is invited to the circular under reference dated 23rd August, 2010 whereby the following instructions, inter-alia, were issued :

> ***"The attention of Law Officers is invited to Rule 94 of the Rules for the Conduct of Legal Affairs of Government, 1984 which is reproduced as follows:***
>
> ***"The Law Officers shall use their own discretion as to the manner in which the cases should be conducted by them. But they shall be guided by any instructions that may be issued to them by the Remembrancer of Legal Affairs or the Joint Secretary, Law & Judiciary Department at Nagpur and Aurangabad, as the case may be. Unless otherwise specifically directed, the arguments need not, however, be limited to those stated in such instructions;***
>
> ***Provided that, they should not admit or make any statements before the court/tribunal while arguing cases, which would land government in embarrassing position, without obtaining the written instructions from the administrative department or the government officer concerned."***
>
> **Therefore, all the Law Officers are hereby directed not to give any consent or make any statement on their own accord. If as per the record of the case, Law Officer feels that any statement is required to be made before the court while arguing the case, they should obtain the written instructions from the concerned administrative department, or the competent government officer concerned. These instructions shall be followed scrupulously."**

4. In view of the aforesaid order of the Hon'ble High Court, the aforesaid instructions are reiterated and all the Government Pleaders, Public Prosecutors, Presenting Officers and Counsels appearing for the State are directed to take

abundant precaution while prosecuting the matter on behalf of the State and in making any statement or concession on behalf of the State. The Law Officers and the Counsels shall, invariably obtain instructions from the concerned administrative department or competent government officer before making any concession or statement which would bind government or its instrumentality.

5. The Law Officers are further directed to communicate the orders passed by the Court/ Tribunal to the concerned administrative department and the Government Officers without loss of time.

6. All the Law Officers are hereby directed to follow the instructions scrupulously.

7. This Government Circular of Maharashtra Government is available at the website www.maharashtra.gov.in. Reference no. for this is 201807021134431212. This Circular has been signed digitally.

By order and in the name of the Governor of Maharashtra.

Bushra Zia Sayyed

Digitally signed by Bushra Zia Sayyed
DN: c=IN, o=Government Of Maharashtra, ou=Law and Judiciary Department, postalCode=400032, st=Maharashtra, 2.5.4.20=d927274678378f7f3d406adb5cd22b6b8d5e2eab74e7f26c725f39d0a83aa0de, serialNumber=cc07f23706a2bc97cc4f056e794ac4da6cd32bedb88c3f102a7206417855297b, cn=Bushra Zia Sayyed
Date: 2018.07.06 11:05:10 +05'30'

**(B.Z. Sayyed)**

**Solicitor-cum-Joint Secretary to Government**

**<u>Copy forwarded to</u>:**

1. All the Departments of Mantralaya, Mumbai.
2. The Joint Secretary, Law and Judiciary Department, A/M Branch-Mumbai/Nagpur/Aurangabad.

3. The Government Pleaders, High Court (O.S.)/High Court (A.S.)(Writ Cell)/High Court (A.S.) Mumbai.
4. The Government Pleaders, High Court Bench at Nagpur/Aurangabad.
5. The Chief Presenting Officers, Maharashtra Administrative Tribunal, Mumbai/Nagpur/ Aurangabad.
6. All the District Government Pleaders and Public Prosecutors, State of Maharashtra.
7. Select File.